

12653. Misbranding of butter. U. S. v. The Midland Creamery Co., a Corporation. Plea of guilty. Fine, \$20. (F. & D. No. 17819. I. S. No. 8750-v.)

On January 22, 1924, the United States attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against The Midland Creamery Co., a corporation, Colorado Springs, Colo., alleging shipment by said company in violation of the food and drugs act as amended, on or about February 12, 1923, from the State of Colorado into the State of Texas, of a quantity of butter which was misbranded. The article was labeled in part: "Midland Gold Band Butter 1 lb. Net Midland Creamery Co. Colorado Springs."

Examination by the Bureau of Chemistry of this department of 60 packages of the article showed that the said packages averaged 15.45 ounces net of butter each.

Misbranding of the article was alleged in the information for the reason that the statement, to wit, "1 lb. Net," borne on the packages containing the article, was false and misleading in that the said statement represented that the said packages contained 1 pound net of butter, and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that each of the said packages contained 1 pound net of butter, whereas, in truth and in fact, each of said packages did not contain 1 pound net of butter but did contain a less amount. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On May 6, 1924, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$20.

HOWARD M. GORE, *Secretary of Agriculture.*

12654. Misbranding of coffee. U. S. v. The Independence Coffee & Spice Co., a Corporation. Plea of guilty. Fine, \$40. (F. & D. No. 18731. I. S. Nos. 20606-v, 20607-v, 20608-v, 20642-v.)

At the May, 1924, term of the United States District Court within and for the District of Colorado, the United States attorney for said district, acting upon a report by the Secretary of Agriculture, filed in the District Court aforesaid an information against the Independence Coffee & Spice Co., a corporation, Denver, Colo., alleging shipment by said company, in violation of the food and drugs act as amended, in various consignments, namely, on or about November 28, 1923, and January 23, 1924, respectively, from the State of Colorado into the State of Wyoming, and on or about January 24, 1924, from the State of Colorado into the State of Nebraska, of quantities of coffee which was misbranded. The article was labeled in part: (Case) "16-3 Lb. Tins" (or "16-2 Lb. Tins" or "60-1 Lb. Cans") "Breakfast Call Coffee The Independence Coffee & Spice Co. Denver, Colo.;" (can) "Steel Cut Three Pounds" (or "Two Pounds" or "One Pound") "Breakfast Call Coffee The Independence Coffee And Spice Co. Denver, Colo."

Examination by the Bureau of Chemistry of this department of 16 of the alleged 3-pound cans showed that the average net weight of the cans examined was 2 pounds 15.13 ounces; examination of 16 cans from each of the two consignments of the alleged 2-pound cans showed that the average net weight of the said cans was 1 pound 15.17 ounces and 1 pound 14.98 ounces, respectively; and examination of 5 of the alleged 1-pound cans showed that the average net weight of the cans examined was 15.33 ounces.

Misbranding of the article was alleged in the information for the reason that the statements "16-3 Lb. Tins" and "Three Pounds," borne on the cases and cans, respectively, containing a portion of the article, the statements, "16-2 Lb. Tins," and "Two Pounds," borne on the cases and cans, respectively, containing a portion of the article, and the statements "60-1 Lb. Cans" and "One Pound," borne on the cases and cans, respectively, containing the remainder thereof, were false and misleading in that the said statements represented that the cans contained 3 pounds, 2 pounds, or 1 pound, as the case might be, of the said article, and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that the said cans contained 3 pounds, 2 pounds, or 1 pound, as the case might be, of the said article, whereas, in truth and in fact, the cans did not contain the amounts declared on the respective labels but did contain less amounts. Misbranding was alleged for the further reason that the article was food in